

February 14, 2007

EXHIBIT 3  
DATE 2-14-07  
HB 460

Mr. Chairman and Members of the Committee:

I would like to thank you for the opportunity to offer my comments on House Bill 460, which seeks to revise the metal mine reclamation statutes.

I want to begin by expressing my support for requirements that ensure that mineral extraction occurs in the best manner possible. I further agree that proper reclamation must be completed and that adequate financial assurance is given to the State of Montana as a guarantee.

I also want to express my appreciation for the staff at the Montana Department of Environmental Quality (DEQ) in what is, often times, a very difficult and thankless job. I recognize that the Department must have adequate authority and the necessary resources to conduct the job that we, as Montanans, ask of them.

On page 3, Lines 22-23 require that evaluations be done in advance to evaluate the potential for any discharges that may exceed limitations. I believe that this is the current practice of the mines located in Jefferson County and elsewhere, but certainly adding some specific language to the current law is acceptable and probably something we can agree on.

On Page 4, Lines 2-4 add language requiring a plan to outline how an operator will minimize contact of surface and ground water with reactive natural materials that have the potential to release contaminants. I fully support this change.

On Page 10, Lines 11-28 add some specificity to how additional analysis and modification of a reclamation plan would be handled if a significant environmental problem or situation were revealed by field inspection. It further sets out requirements for when and how the DEQ can require an interim bond.

First, I believe that with operating mines, the DEQ has all the authority they need to revise a reclamation plan, require increases in bonding, and in fact, they have a mandate to review bonds annually. The law also requires a comprehensive review of bonds at least every 5 years. Further, the amount of bonding cannot be properly calculated until a determination has been made on a reclamation plan. Otherwise, it is just guesswork and based on a hypothetical. I want to emphasize again that I am supportive of adequate bonding. I just believe that the DEQ has all the authority it needs currently. That said, since the DEQ believes that it needs further authority, I can support this change to the law.

Having originally prepared my comments based on the HB 460 without amendments, I would now like to take a few moments to specifically address the proposed amendments. I generally support these amendments with a couple of questions or concerns, which I respectfully request the committee address.

Amendment Number 4 suggests striking the word waste on Page 7, Line 3 and inserting the word "mine-related." The word "mine-related" seems to be vague to me, and I would suggest that perhaps this term needs to be defined. I am just not certain I know exactly what that term means.

Amendment Number 9, suggests a new subsection (8) (a) be added. The fifth line of that paragraph reads "an acceptable level the environmental condition." Again, I believe that this not only reads a little awkward, but that the phrase "environmental condition" is not specific enough. I would suggest that you replace the words "environmental condition" with the language "substantial and imminent danger to public health, public safety, or the environment." This more specific language is on Page 10, Lines 12 and 13, and clearly states what we are trying to accomplish. So the new subsection (8) (a) would now read, "In determining whether to require amendment of a reclamation plan under subsection (7)(a), the department shall prepare or require the permittee to prepare a written analysis of changes in the reclamation plan that may eliminate or mitigate to an acceptable level the substantial and imminent danger to public health, public safety, or the environment."

I think that this accomplishes what we are trying to do without vagary.

In closing, I support HB 460 with the amendments but would request that you please take a moment in your deliberations to consider my suggestions as to how we can make this a better bill.

Thank you for the opportunity to offer these comments.

Sincerely yours,

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